

REMARKS

I. Introduction

Claims 1 to 24 are currently pending in this application. Claims 11 and 23 have been withdrawn from consideration. In view of the foregoing amendments and the following remarks, it is respectfully submitted that all of the presently pending claims are allowable, and reconsideration is respectfully requested.

II. Rejection of Claims 9 and 10 Under 35 U.S.C. § 112

Claims 9 and 10 were rejected under 35 U.S.C. § 112, second paragraph as allegedly indefinite. The Examiner will note that claim 9 has been amended herein without prejudice to remove reference to "the linkage system." It is therefore respectfully submitted that the present rejection has been obviated, and withdrawal of this rejection is respectfully requested.

III. Rejection of Claims 1, 4, 7, 8, 12, 13, 18 to 20 and 24 Under 35 U.S.C. § 102(b)

Claims 1, 4, 7, 8, 12, 13, 18 to 20 and 24 were rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 4,303,269 ("Faughnan"). Applicants respectfully submit that Faughnan does not anticipate claims 1, 4, 7, 8, 12, 13, 18 to 20 and 24, as amended, for the following reasons.

Claim 1 relates to an apparatus for gripping and releasing at least one item. Claim 1 recites that the apparatus includes a pickup head, at least one gripping plate, a restraining device corresponding to each gripping plate and an actuation device configured to move the at least one gripping plate between the open position and the closed position. Claim 1 further recites that the restraining device is configured to connect the corresponding gripping plate to the pickup head so that the gripping plate is movable relative to the pickup head between an open position and a closed position and so that the gripping plate is movable relative to the pickup head in at least one degree of freedom when the gripping plate is in the open position and in the closed position. Claim 1 further recites that the restraining device includes at least a first link and a second link and that the first link and second link are connected to the pickup head and to the gripping plate. Claim 1 has been amended herein without prejudice to recite that the actuation device is

connected between the pickup head and at least one of the first and second links. No new matter has been added. See the Specification, for example, at p. 7, lines 16 to 21.

Claim 13 relates to an apparatus for gripping and releasing at least one item. Claim 13 recites that the apparatus includes a pickup head, at least one gripping plate, a restraining device corresponding to each gripping plate and an actuation device configured to move the at least one gripping plate between the open position and the closed position. Claim 13 further recites that the restraining device is configured to connect the corresponding gripping plate to the pickup head so that the gripping plate is movable relative to the pickup head between an open position and a closed position. Claim 13 further recites that an end of the gripping plate is displaced inwardly by the restraining device when the gripping plate is moved from the open position to the closed position. Claim 13 further recites that the restraining device is further configured to permit the gripping plate to be movable relative to the pickup head in at least one degree of freedom when the gripping plate is being moved from the closed position to the open position. Claim 13 further recites that the restraining device comprises at least a first link and a second link and that the first link and second link are connected to the pickup head and to the gripping plate. Claim 13 has been amended herein without prejudice to recite that the actuation device is connected between the pickup head and at least one of the first and second links. No new matter has been added. See the Specification, for example, at p. 7, lines 16 to 21.

Faughnan purportedly relates to a lifting and material handling apparatus. Faughnan state that the apparatus includes a hinge block 1 with lower arms 3 and 5 pivotably attached at respective sides thereof. See col. 2, lines 48 to 50. Load grasping means 7 and 9 are stated to be pivotably attached to the respective free ends of the lower arms. See col. 2, lines 50 to 52. Hydraulic cylinder 25 is stated to be attached to the upper bar 17 on one end and to the lower end of the lifting rod 11 on the opposite end. See col. 3, lines 11 to 13.

Nowhere, however, does Faughnan disclose, or even suggest, an actuation device that is connected between a pickup head and at least one of first and second links, as recited in amended claims 1 and 13. As indicated above, hydraulic cylinder 25 is stated to be attached to the upper bar 17 on one end and to the lower end of the lifting rod 11 on the opposite end. See col. 3, lines 11 to 13.

Therefore, Faughnan does not disclose, or even suggest, all of the limitations of amended claims 1 and 13.

To anticipate a claim, each and every element as set forth in the claim must be found in a single prior art reference. Verdegaal Bros. v. Union Oil Co. of Calif., 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987). Furthermore, “[t]he identical invention must be shown in as complete detail as is contained in the . . . claim.” Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989). That is, the prior art must describe the elements arranged as required by the claims. In re Bond, 910 F.2d 831, 15 U.S.P.Q.2d 1566 (Fed. Cir. 1990). As more fully set forth above, it is respectfully submitted that Faughnan does not disclose, or even suggest, an actuation device that is connected between a pickup head and at least one of first and second links, as recited in amended claims 1 and 13. Accordingly, Faughnan does not anticipate claims 1 and 13.

As for claims 4, 7, 8 and 12, which ultimately depend from claim 1 and therefore include all of the limitations of claim 1, Applicants respectfully submit that Faughnan does not anticipate these dependent claims for at least the same reasons provided above in support of the patentability of claim 1.

As for claims 18 to 20 and 24, which ultimately depend from claim 13 and therefore include all of the limitations of claim 13, Applicants respectfully submit that Faughnan does not anticipate these dependent claims for at least the same reasons provided above in support of the patentability of claim 13.

IV. Rejection of Claim 2, 3, 16 and 17 Under 35 U.S.C. § 103(a)

Claims 2, 3, 16 and 17 were rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of Faughnan and U.S. Patent No. 3,156,496 (“Davidson”). Applicants respectfully submit that the combination of Faughnan and Davidson does not render claims 2, 3, 16 and 17 unpatentable for the following reasons.

Claim 2 depends from claim 1 and further recites that the actuation device includes at least one air cylinder.

Claim 3 depends from claim 1 and further recites that the actuation device includes at least one air cylinder corresponding to each of the at least one gripping plates.

Claim 16 depends from claim 13 and further recites that the actuation device includes at least one air cylinder.

Claim 17 depends from claim 13 and further recites that the actuation device includes at least one air cylinder corresponding to each of the at least one gripping plates.

As indicated above, nowhere does Faughnan disclose, or even suggest, an actuation device that is connected between a pickup head and at least one of first and second links, as recited in amended claims 1 and 13. Nor does Davidson cure the deficiencies of Faughnan. Therefore, it is respectfully submitted that the combination of Faughnan and Davidson does not disclose, or even suggest, all of the limitations of claim 1, from which claims 2 and 3 depend, or claim 13, from which claims 16 and 17 depend.

In rejecting a claim under 35 U.S.C. § 103(a), the Examiner bears the initial burden of presenting a *prima facie* case of obviousness. *In re Rijckaert*, 9 F.3d 1531, 1532, 28 U.S.P.Q.2d 1955, 1956 (Fed. Cir. 1993). To establish *prima facie* obviousness, three criteria must be satisfied. First, there must be some suggestion or motivation to modify or combine reference teachings. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988). This teaching or suggestion to make the claimed combination must be found in the prior art and not based on the application disclosure. *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991). Second, there must be a reasonable expectation of success. *In re Merck & Co., Inc.*, 800 F.2d 1091, 231 U.S.P.Q. 375 (Fed. Cir. 1986). Third, the prior art reference(s) must teach or suggest all of the claim limitations. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974). As stated above, the combination of Faughnan and Davidson fails to disclose, or even suggest, each and every feature of claim 1, from which claims 2 and 3 depend, or claim 13, from which claims 16 and 17 depend. It is therefore respectfully submitted that the combination of Faughnan and Davidson does not render unpatentable claims 2, 3, 16 and 18. Withdrawal of this rejection is therefore respectfully requested.

**V. Nonstatutory Double Patenting Rejection of
Claims 1 to 3, 5 to 10, 12 to 17, 19 to 22 and 24**

Claims 1 to 3, 5 to 10, 12 to 17, 19 to 22 and 24 were rejected under the judicially created doctrine of obviousness-type double patenting as unpatentable

over claims 1 to 3, 7 to 10, 12, 16 to 20 and 24 to 27 of U.S. Patent No. 6,056,341. The Final Office Action indicates, however, that a timely filed terminal disclaimer in compliance with 37 C.F.R. § 1.321(c) may be used to overcome this rejection. See Final Office at p. 5. Enclosed herewith is such a terminal disclaimer. It is therefore respectfully submitted that the present rejection has been obviated, and withdrawal of this rejection is respectfully requested.

VI. Claims 5, 6, 9, 10, 14, 15, 21 and 22

As indicated above, enclosed herewith is a terminal disclaimer in compliance with 37 C.F.R. § 1.321(c) to obviate the nonstatutory double patenting rejections of claims 1 to 3, 5 to 10, 12 to 17, 19 to 22 and 24. Applicants note that claims 9 and 10 were only rejected under 35 U.S.C. § 112 and that claims 5, 6, 14, 15, 21 and 22 were only rejected under the nonstatutory double patenting grounds. Applicants therefore respectfully submit that at least claims 5, 6, 9, 10, 14, 15, 21 and 22 are now in condition for allowance.

VII. Conclusion

It is therefore respectfully submitted that all of the presently pending claims are allowable. All issues raised by the Examiner having been addressed, an early and favorable action on the merits is earnestly solicited.

Respectfully submitted,

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